

**MINUTES
of the
SIXTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**November 1, 2012
Room 322, State Capitol
Santa Fe**

The sixth meeting of the Economic and Rural Development Committee (ERDC) was called to order by Representative Debbie A. Rodella, chair, on November 1, 2012 at 9:56 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Debbie A. Rodella, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Rep. Ernest H. Chavez
Sen. Mary Jane M. Garcia
Rep. Yvette Herrell
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Sen. Howie C. Morales
Sen. David Ulibarri
Sen. Pat Woods

Advisory Members

Sen. Sue Wilson Beffort
Rep. Zachary J. Cook
Rep. Sandra D. Jeff
Rep. James Roger Madalena
Rep. William "Bill" R. Rehm
Rep. Nick L. Salazar
Rep. Richard D. Vigil

Guest Legislators

Sen. Carlos R. Cisneros
Rep. Gail Chasey
Sen. Nancy Rodriguez

Absent

Sen. Mark Boitano
Rep. Mary Helen Garcia
Rep. Nate Gentry
Rep. Dianne Miller Hamilton

Sen. Rod Adair
Rep. Eliseo Lee Alcon
Sen. William F. Burt
Rep. George Dodge, Jr.
Sen. Timothy M. Keller
Sen. Carroll H. Leavell
Sen. George K. Munoz
Rep. Andy Nuñez
Sen. John Pinto
Sen. John M. Sapien
Rep. Thomas C. Taylor

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)

Pam Stokes, Staff Attorney, LCS

Alex Tapia, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, November 1**Call to Order**

Representative Rodella welcomed everybody to the final meeting of the ERDC. Members of the committee and guest legislators introduced themselves.

Legislative Finance Committee (LFC) Program Evaluation of Job Creation Incentives

Maria Griego, program evaluator, LFC, explained to the committee the LFC's program evaluation of job creation, highlighting some of the findings and recommendations included in the "Report to the Legislative Finance Committee". The evaluation focused on three incentives designed to spur economic development in New Mexico: the Job Training Incentive Program (JTIP); the Local Economic Development Act (LEDA); and a selection of tax credits administered by the Taxation and Revenue Department (TRD). The primary conclusion of the report was that New Mexico lacks a comprehensive approach for financing and monitoring performance of job creation incentives. In 2009, the LFC had made the following recommendations to improve effectiveness and accountability in economic development programs:

1. prepare a statewide economic development plan that includes a variety of high-performance measures;
2. require incentive agreements;
3. link incentives to performance;
4. establish minimum wage standards for job creation and retention requirements; and
5. require incentive recapture (clawback) for non-performance.

The report noted that while the Economic Development Department (EDD) has implemented portions of these recommendations, the majority of them have not been addressed, which has led to programs being utilized as subsidies instead of as performance-driving

incentives and to there being no recourse for the state to recover funds, causing losses to the state totaling tens of millions of dollars. Ms. Griego cited instances where the state has lost out on economic development and substantial funds due to a lack of clawbacks.

Brenda Fresquez, program evaluator, LFC, continued the presentation to the committee by delving into the LEDA program in more detail. State LEDA grants are provided to the local governments to provide for infrastructure such as roads. Ms. Fresquez recommended establishing minimum job creation and retention standards for recipients of state money.

Jonathan Barela, secretary, EDD, responded to the report by the LFC, stressing the complexity and non-competitiveness of the New Mexico tax code. Of the 350 tax deductions, credits and incentives, only five percent go to direct job creation. A high corporate income tax requires adding incentives, cuts and credits to make New Mexico more competitive. Secretary Barela explained that most of the jobs that New Mexico has lost have been lost to other states, not outsourced to other countries, increasing state-to-state competition. New Mexico's anti-donation clause is unique in that it prohibits direct contributions to companies, which may hinder the state's competitive position.

Secretary Barela highlighted some of the successes of the JTIP and LEDA program for the committee, including the fact that other states have replicated the JTIP. The EDD will be requesting \$4.75 million for JTIP funds in the upcoming legislative session. The EDD received \$63.6 million in capital outlay appropriations for LEDA projects from 2007 to 2011; however, \$37.9 million, or 59.6%, of those funds were special appropriations to four projects: Schott Solar, Hewlett Packard, Fidelity Investments and Santa Fe Studios. Of the remaining \$25.7 million appropriated for LEDA projects, all but \$2,550,000 went to projects outside of Albuquerque, Rio Rancho, Las Cruces and Santa Fe. Secretary Barela emphasized that 90.1% of the appropriated LEDA funds were awarded through the EDD's vetting process to projects in rural areas.

Tom Clifford, secretary, Department of Finance and Administration, said that he views tax incentives as trade-offs. Economists, Secretary Clifford explained, prefer the government to be involved as little as possible in promoting economic growth. The amount of oversight requested by the LFC adds a level of complexity, and the more requirements that are in place, the more the purpose of the incentives may be mooted. Secretary Clifford said that he views the LFC report as being negative toward tax incentives, adding that annual reporting on tax expenditures is very expensive and may not be cost-effective. He feels that a better approach would be targeted detailed analysis — asking an auditor to review specific programs.

Questions from Committee Members

Members of the committee asked questions about the report, which the presenters from the different agencies answered. Members asked about the cost of job creation, tracking incentives and specific projects like Santa Fe Studios.

A member of the committee requested a breakdown of the \$7.9 million appropriated during the last legislative session. Secretary Barela stressed the importance of the JTIP and offered to follow up with a breakdown of how the money was spent. Secretary Barela told the ERDC that information about the program and the companies that have received assistance can be found on the EDD web site. Information about the JTIP board, which is composed of governor-appointed representatives of public education and financial institutions, and its meetings can also be found on the web site.

A member of the committee asked where the state stands in terms of developing a system to evaluate New Mexico's tax expenditures. Secretary Clifford explained that there currently is not enough staff available to prepare the type of reports that the LFC is requesting. Secretary Clifford reiterated that a detailed analysis of a particular program, or a few programs, is the most efficient method of evaluation.

A member of the committee asked Secretary Barela if the EDD has a liaison for Native American issues. Secretary Barela responded that currently it does have a liaison and has expanded to the different districts. He said that the EDD takes tribal economic development very seriously and offers an additional incentive in JTIP for jobs created on tribal lands. In addition, Secretary Barela said, the EDD is in the process of adding an African American chamber of commerce, which will work with the Hispanic chambers of commerce in the state.

A member of the committee asked if LEDA or JTIP is playing any role in the development of the Spaceport and asked about the informed-consent issue. Secretary Barela informed the committee that 12 other states have plans for a spaceport, and if the informed-consent law is not addressed soon, New Mexico will be bypassed. The Spaceport's only tenant, Virgin Galactic, has recently completed the process and received a certificate of occupancy.

Approval of Minutes

Upon a motion by Representative Lundstrom, seconded by Senator Morales, the committee voted unanimously to approve the minutes of the fourth and fifth meetings of the ERDC.

Proposed Legislation for Committee Endorsement

The following legislation was presented to the ERDC for committee endorsement.

Rulemaking Consistency Bill: 202.190092.1

This bill, relating to rules, creates requirements for proposing, adopting, amending or repealing rules. Senator Sanchez made a motion for committee endorsement of the bill, seconded by Senator Martinez. It was suggested that Senator Keller carry the bill with the help of Representative Lundstrom.

Kitchen Accelerator Program Appropriation Bill: 202.190466.3

This bill provides an appropriation of \$350,000 for a project to accelerate the growth of food

entrepreneurs by working with multiple rural communities to develop their respective food assets to create a statewide cohesive food infrastructure. There was discussion among committee members of the dollar amount of the appropriation. Members of the committee suggested an increase to a one-time appropriation of \$1.4 million because of concern that funding could be cut off before the program becomes sustainable. A motion to amend the amount from \$350,000 to \$1.4 million was made by Representative Lundstrom and seconded by Senator Sanchez. A motion for committee endorsement of the bill, as amended, was made by Senator Garcia and seconded by Senator Sanchez. Representative Chavez will carry the bill.

MainStreet Bills

202.190468.1

This bill provides an appropriation of \$100,000 for services to MainStreet programs. The committee endorsed the bill, and Senator Beffort will carry it in the senate and Representative Herrell will carry it in the house.

202.190469.1

This bill provides an appropriation of \$100,000 to create the Frontier Communities program. Representative Lundstrom moved for committee endorsement of the bill, seconded by Senator Beffort. Representative Lundstrom and Senator Woods will co-sponsor the bill.

202.190467.2

This bill provides an appropriation of \$100,000 for amending the Arts and Cultural District Act by clarifying the types of arts and cultural districts and designation procedures and by permitting arts and cultural districts for tribal entities. Allison Smith, lobbyist, New Mexico Coalition of MainStreet Communities, said that the bill includes only minor changes to the act, which changes are intended to clean up language and make the act more clear. Senator Beffort moved for committee endorsement of the bill, seconded by Representative Jeff. Both Senator Beffort and Representative Jeff will carry the bill.

Individual Development Account Appropriation Bill: 202.190503.1

This bill is an appropriation of \$500,000 for New Mexico individual development accounts and was brought before the committee as requested by Senator Keller. After discussion, the committee came to a consensus not to endorse the bill.

University of New Mexico Design and Planning Assistance Center Appropriation Bill: 202.190567.1

This bill provides an appropriation of \$100,000 to the Board of Regents of the University of New Mexico to expand the community outreach activities of the Design and Planning Assistance Center at the School of Architecture and Planning. There was discussion among committee members of whether this bill should be a special program under the higher education budget. A member of the committee noted that this is a new program that would complement the bills on frontier communities and MainStreets, providing great opportunities for communities that lack the budgets for designers. Representative Herrell moved for committee endorsement of the bill,

and the motion was seconded by Senator Beffort. Senator Beffort will carry the bill.

Construction Inspector Bills

These bills were discussed in depth during the fifth meeting of the ERDC on October 2, 2012 in Albuquerque. Testimony and discussion can be found in the minutes of that meeting.

202.190381.3

This bill requires the Construction Industries Division (CID) of the Regulation and Licensing Department (RLD) to certify inspectors to inspect statewide. A member of the committee provided the historical background on the issue and the need for the amendments. Representative Rodella asked for audience feedback, and it was determined that there were still differing opinions on the matter. After lengthy discussion of the bill, Senator Sanchez moved to endorse the legislation. The motion was seconded by Representative Lundstrom, and the committee requested that Representative Gentry carry the bill.

202.190387.1

This bill contains provisions for amending, repealing and enacting sections of the NMSA 1978 to provide for powers and duties of local government chief building officials; changing Construction Industries Commission authority over local government inspectors; and providing a penalty. It was noted that the bill is an updated version of the bill carried by former Senator Clinton D. Harden, Jr., in 2010. After discussion by the committee, and upon hearing feedback from members of the construction industry and stakeholders, the committee opted not to endorse the legislation.

202.190415.5SA

This bill amends the Construction Industries Licensing Act to accommodate statewide inspector's licenses; establishes certified building officials; and allows for independent inspection services companies. It was noted that the bill was brought before the committee by the RLD and has been reworked numerous times. Katherine Martinez, director, CID, explained to the committee the changes and additions in the draft legislation. Members of the audience were asked to provide input on the proposed legislation, and it was evident that there remains a significant amount of disagreement on the issue. The committee decided not to endorse the bill at this time, and it was suggested that construction industry representatives and stakeholders get together to come up with new draft legislation.

202.190533.2

This bill amends the Municipal Code to provide for chief building officials and to require the CID to certify inspectors to inspect statewide. The legislation was brought before the committee at the request of the New Mexico Council of Code Officials. After discussion and input from members of the construction industry, the committee decided not to endorse the legislation.

Program to Attract and Retain Businesses in New Mexico Bill: 202.190589.1

This bill is an appropriation of \$880,000 to the EDD to support a program to attract and retain businesses in the state and to create jobs in New Mexico. After discussion by the committee, Representative Herrell moved to endorse the bill. Representative Lundstrom seconded the motion and requested that she carry the bill.

Telecommunications Bills

These bills were discussed in depth during the fourth meeting of the ERDC on September 20, 2012 in Gallup. Testimony and discussion can be found in the minutes of that meeting.

202.190500.3

This bill amends the Rural Telecommunications Act of New Mexico to change regulation of incumbent rural telecommunications carriers. After discussion of the proposed legislation, Senator Sanchez moved for committee endorsement of the bill, and Senator Garcia seconded the motion. Representative Rehm requested that the record reflect his vote in opposition. The ERDC recommended that the bill be carried by a legislator who is a member of the Science, Technology and Telecommunications Committee.

202.190501.2

This bill amends the utility and carrier inspection fee. Representatives from the New Mexico Exchange Carrier Group and the Public Regulation Commission expressed the need for the legislation, which would create a level playing field for all telecommunications companies and provide clarity in ongoing litigation. The ERDC debated over language in the draft legislation that could cause confusion. Senator Beffort made a motion to change "transmission company" to "telecommunications transmission company". The motion to change the language was seconded by Representative Lundstrom. Senator Ulibarri moved for committee endorsement of the draft legislation, as amended. The motion was seconded by Representative Jeff, who will carry the bill along with Senator Beffort.

Adjournment

The committee recognized members of the committee who would not be returning for the 2013 session for their contributions to the ERDC and the New Mexico Legislature.

There being no further business before the committee, the sixth and final meeting of the ERDC for the 2012 interim adjourned at 4:36 p.m.